

## Message Text

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ORIGIN EB-06

INFO OCT-01 NEA-06 ISO-00 CAB-02 CIAE-00 COME-00 DODE-00

DOT-00 INR-05 NSAE-00 RSC-01 FAA-00 FEA-01 L-01 SS-15

OMB-01 TRSE-00 /039 R

DRAFTED BY EB/OA/AVP:JCOOK:DWL  
APPROVED BY EB/OA/AVP:DBORTMAN  
CAB - MR. MURPHY  
NEA/IAI - MR. BIZIC  
OA/AN - MR. STYLES  
FEA - GOODWIN

----- 099290

R 232330Z OCT 74  
FM SECSTATE WASHDC  
TO AMEMBASSY TEL AVIV

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E.O. 11652:N/A

TAGS: EAIR, IS

SUBJECT: CIVAIR - FUEL CHARGE

REF: TEL AVIV 5723, STATE 205377

1. DEPT ADVISED FEA AS FOLLOWS ON PENDING EL AL APPLICATION FOR A FUEL BASE ALLOCATION ADJUSTMENT:

QUOTE WE HAVE DISCUSSED THE ISRAELI RESPONSE WITH TWA AND THEY SAY THEY HAVE NO EVIDENCE THAT EL AL PAYS A LOWER CHARGE THAN TWA AND THE OTHER INTERNATIONAL CARRIERS. ABSENT SUCH EVIDENCE, WE SEE NO BASIS FOR HOLDING UP ANY FURTHER A DECISION ON EL AL'S REQUEST FOR A FUEL ALLOCATION ADJUSTMENT. END QUOTE

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2. CAB RECOMMENDED TO FEA THAT EL AL BE DENIED ANY ACCESS

TO US DOMESTIC FUEL AS WELL AS THE REQUESTED INCREASE IN ITS ALLOCATION QUOTE UNTIL UNRESOLVED FACTUAL MATTERS ARE SQUARED OR UNTIL THE GOVERNMENT OF ISRAEL TAKES MEASURES TO REDRESS THIS MATTER. END QUOTE. THE CAB POSITION WAS BASED ON CONTENTION THAT THROUGH-PUT CHARGE IS ESSENTIALLY A TAX AND IS THEREFORE UNFAIR BECAUSE EL AL IS EXEMPTED FROM PAYMENT OF EXCISE AND CUSTOMS DUTIES ON FUEL UPLIFTED IN US.

3. WHILE AVAILABLE INFORMATION DOES NOT SUPPORT CASE OF DISCRIMINATION AGAINST TWA, WE ARE NOT COMPLETELY CONVINCED THAT TWA'S COMPLAINT IS GROUNDLESS. AS POINTED OUT BY BOARD, THE STRUCTURE OF THE CHARGE AND ITS METHOD OF COMPUTATION SEEM TO SUGGEST THAT THE CHARGE IS IN SUBSTANCE IF NOT FORM A TAX ON FUEL. TWA ECHOED THIS VIEW IN RECENT LETTER TO DEPT:

QUOTE WE BELIEVE THAT THE CHARGE HAS THE CHARACTERISTICS OF AN AD VALOREM TAX SINCE IT IS TIED TO THE PRICE OF FUEL AND NOT THE HANDLING OF SERVICES PROVIDED. END QUOTE.

DEPT IS PREPARED TO RECOMMEND THAT THE DEPT OF COMMERCE REVIEW SUBJECT CHARGE TO DETERMINE WHETHER IT COMPLIES WITH THE REQUIREMENTS OF RECIPROCITY IN US LAW AS REGARDS THE TAX EXEMPTION GRANTED TO EL AL. (COPIES OF DEPT, CAB AND TWA LETTERS POUCHED TO EMBASSY).

4. EMBASSY IS REQUESTED TO REPLY TO ISRAELI NOTE OF SEPT 30 DRAWING ON FOLLOWING POINTS:

(1) DEPT REMAINS CONCERNED OVER THE STRUCTURE OF THE CHARGE AND ITS METHOD OF COMPUTATION WHICH HAS CHARACTERISTICS OF AN AD VALOREM TAX.

(2) DEPT WOULD APPRECIATE ISRAELI EXPLANATION OF WHY CHARGE IS BASED OF FIXED PERCENTAGE OF COST PER GALLON OF FUEL RATHER THAN ON COST OF SERVICES RENDERED.

(3) NOTE SHOULD AGAIN REMIND ISRAELI AUTHORITIES OF US TAX CUSTOMS EXEMPTION REGULATIONS AS SET FORTH IN LIMITED OFFICIAL USE

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EMBASSY'S A-180 OF 7/23/74 AND THE REQUIREMENT OF SUBSTANTIAL RECIPROCITY.

5. DEPT WILL HOLD UP FORMAL REFERRAL OF CASE TO DEPT OF COMMERCE UNTIL EMBASSY HAS SUBMITTED NOTE TO ISRAELI GOVERNMENT. WOULD APPRECIATE NOTIFICATION WHEN NOTE IS SUBMITTED. INGERSOLL

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** CIVIL AVIATION, JET FUEL, TAXES  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 23 OCT 1974  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** shawdg  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
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**Original Handling Restrictions:** n/a  
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**Reference:** TEL AVIV 5723, STATE 205377  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** shawdg  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 20 AUG 2002  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <20 AUG 2002 by WorrelSW>; APPROVED <06 MAR 2003 by shawdg>  
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**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** CIVAIR - FUEL CHARGE  
**TAGS:** EAIR, IS, EL AL AIRLINES  
**To:** TEL AVIV  
**Type:** TE  
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